

which he has discharged the duties of temporary sergeant-at-arms.

Adopted.

On motion of Senator Fountain the rules of the last session were adopted for the government of the Senate for the present, and a committee of five on rules was appointed.

The President announced Senators Fountain, Finlay, Shelley, Ruby and Saylor a committee to draft rules for the present session.

The committee appointed to inform the House of the organization of the Senate reported duty performed, and was discharged.

A message from the House informed the Senate that the House had organized by the election of the following officers:

M. D. K. Taylor, Speaker; W. C. Walsh, Chief Clerk; T. J. Pilgrim, First Assistant; J. M. Beall, Second Assistant; W. A. Wortham, Engrossing Clerk; W. D. C. Nelson, Enrolling Clerk; E. S. Rhodes, Sergeant-at-Arms; N. C. Reeves, Assistant Sergeant-at-Arms; C. L. Arbuckle, Doorkeeper.

On motion of Senator Gaines, the Senate adjourned until 10 o'clock A. M. to-morrow.

SENATE CHAMBER, }  
AUSTIN, TEXAS, January 16, 1873. }

Senate met pursuant to adjournment. Prayer by the chaplain. Roll called; quorum present. Journal of yesterday read and adopted.

Senator Fountain, chairman of a select committee appointed to draft rules for the guidance of the Senate, made the following report:

COMMITTEE ROOM, AUSTIN, January 16, 1873.

*Hon. E. B. Pickett, President of the Senate.*

SIR: Your committee appointed to prepare and report suitable rules for conducting the business of the Senate, respectfully report that they have performed their duty, and submit the following, and recommend their adoption:

RULES OF THE SENATE OF TEXAS.

QUORUM.

1. Two-thirds of all the Senators elected shall constitute a quorum, but a smaller number may adjourn from day to day and compel the attendance of absent members. (Con., Art. 3, Sec. 15.)

2. In case a less number than a quorum shall convene, the members present may send the sergeant-at-arms, or any other person or persons, for any or all absent members.

ABSENTEES.

3. No member shall absent himself from the services of the Senate without leave, unless he be sick or unable to attend.

4. A call of the Senate may be demanded by five members; and if there be any absent, the names of the absentees shall be called again; if they do not answer, the sergeant-at-arms or a special messenger may be sent for them; and the question pending shall be, without a motion, laid on the table until the absentees appear or the call be suspended.

OFFICERS OF THE SENATE.

5. The Lieutenant Governor of the State shall, by virtue of his office, be President of the Senate. (Con., Art. 4, Sec. 15.)

6. When the Lieutenant Governor does not attend to preside, the Senate shall elect one of their own members as President for the time being. (Con., Art. 4, Sec. 15.)

7. The Lieutenant Governor or President for the time being shall have the right to name a member to perform the duties of the chair; but such substitution shall not extend beyond an adjournment.

8. The President of the Senate shall have control of such parts of the capitol as have been or may be set apart for the use of the Senate and its officers.

9. A secretary, assistant secretary, sergeant-at-arms, doorkeeper, and enrolling and engrossing clerks, and such other officers as a majority vote may determine to be necessary, shall be elected the first session of the Leg-

islature, to continue in office until discharged by order of the Senate.

#### OPEN DOORS.

10. The doors of the Senate shall be kept open, except upon a call of the House and when there is an executive session. (Con., Art. 3, Sec. 22.)

#### ORDER OF BUSINESS.

11. The presiding officer shall take the chair at the hour to which the Senate last adjourned.

12. The names of the Senators shall be called alphabetically; should a quorum not be in attendance, a majority of those present shall be authorized to send the sergeant-at-arms or a special messenger for the absentees; when there is a quorum assembled, the journal of the preceding day shall be read, and corrected if necessary. (Con., Art. 3, Sec. 15.)

13. The President shall then call, first, for petitions and memorials; second, for reports from standing committees; third, for reports from select committees; fourth, for bills and resolutions; fifth, for unfinished business; sixth, for bills on second reading; seventh, for bills on third reading; eighth, for bills reported from committees; ninth, special orders; tenth, business on table, which shall be disposed of in the order in which they were presented, unless otherwise directed by the Senate.

#### DECORUM AND DEBATE.

14. When a Senator is about to speak in debate, or to communicate any matter to the Senate, he shall address the presiding officer, standing in his place; and when he has finished shall sit down.

15. When two or more members rise to address the chair, the President shall name the person to speak; but in all cases the member who shall first rise and address the chair shall speak first.

16. No member shall speak more than once in any one debate until every member designing to do so shall have spoken; nor shall any member speak more than twice in any one debate without leave of the Senate.

17. When a member shall be called to order by the

President, or by a Senator, he shall sit down until the question of order be decided; if the decision be in his favor, he shall be at liberty to proceed; if otherwise, he shall not proceed without leave of the Senate.

18. If a member be called to order for using exceptional words, they shall be immediately taken down in writing, that the President may be better enabled to judge of them.

19. Every question of order shall, in the first instance, be decided by the President, from whose decision any member may appeal to the Senate.

20. The President may call for the opinion of the Senate on any question of order.

21. While the President is putting a question, or addressing the Senate, he shall not be interrupted.

22. While a member is speaking no other member shall interrupt him, except by leave, to explain; nor shall a member speak to any one, or walk across the floor, or otherwise interrupt the business of the Senate. No smoking shall be allowed in the Senate chamber during the session of the Senate.

23. When a question is under debate, no motion shall be received except, first, to adjourn; second, to reconsider; third, to amend; fourth, to commit; fifth, to lay on the table; sixth, to postpone for a time certain; seventh, to postpone indefinitely; eighth, for the previous question. Which several motions shall have precedence in the order in which they stand arranged.

24. No debate shall be allowed on a motion to lay on the table, for the previous question, or to adjourn.

25. The Senate may punish any member for disorderly conduct, and, with the consent of two-thirds, may expel a member; but not a second time for the same offense. (Con., Art. 3, Sec. 16.)

26. The Senate, during its session, may imprison for forty-eight hours any person not a member, for disrespectful or disorderly conduct in its presence, or for obstructing any of its proceedings. (Con., Art. 3, Sec. 21.)

27. Any member who shall receive or offer a bribe, or who shall suffer his vote influenced by promise of preferment or reward, shall, on conviction, be expelled. (Con., Art. 3, Sec. 32.)

## BILLS.

28. Every bill shall be read in the Senate on three several days, and free discussion allowed thereon, before it shall have the force of a law; unless in case of great emergency, four-fifths of the members present may deem it expedient to dispense with this rule. (Con., Art. 3, Sec. 24.)

29. The President shall, at each reading, announce whether the bill originated in the Senate or in the House of Representatives; and whether it be the first, second, or third reading.

30. The first reading of the bill shall be for information, but it may then be rejected; if no motion be made to reject, it shall then be read by its caption and referred.

31. The final question upon the second reading of a bill originating in the Senate shall be, "Shall this bill be engrossed and read a third time?"

32. The final question upon the second reading of a bill that originated in the House of Representatives shall be, "Shall this bill pass to a third reading?"

33. No amendment shall be received at the third reading of a bill without the consent of two-thirds of the members present.

34. It shall be in order, at the third reading of a bill, to move its commitment; and should such commitment take place, and any amendment be reported by the committee, the said bill shall be considered as on its second reading.

BILLS THAT HAVE PASSED THE SENATE AND BEEN  
AMENDED IN THE HOUSE OF REPRESENTATIVES.

35. When the House of Representatives shall adopt and send to the Senate a substitute for a bill that had previously passed the Senate and been sent to the House, said substitute shall be acted on by the Senate in the same manner as a bill that originated in the House of Representatives.

36. When a bill that originated in the Senate shall be returned by the House of Representatives, with amendments, said bill shall be subject to commitment, and the same rules that govern bills on a second reading.

## RESOLUTIONS.

37. Every resolution that requires the approval of the Governor shall be subject to the rules that govern the proceedings on bills.

38. All resolutions except those named in the preceding rules shall be acted on upon their introduction,

## AMENDMENTS TO THE CONSTITUTION.

39. All amendments proposed to the Constitution shall be subject to the rules that govern the proceedings on bills, except that they shall, in all cases, be read on three several days, and shall only be passed by a vote of two-thirds of the Senate. (Con. Art. 12, Sec. 50.)

40. When a proposed amendment to the Constitution may be under consideration, the votes of the majority of the members present shall be sufficient to decide an amendment thereto, or any collateral or incidental question short of the final question.

## MOTIONS.

41. No motion shall be debated until it shall have been seconded.

42. All motions shall be reduced to writing and read by the secretary, if desired by the presiding officer or any Senator present.

43. After a motion has been stated by the President, or read by the secretary, it shall be deemed to be in the possession of the Senate; but it may be withdrawn at any time before it has been amended or decided.

44. On motion to fill a blank, the largest sum and the longest time shall have precedence.

45. Any member may have the question before the Senate divided, if it be susceptible of a division into distinct questions.

46. If the question in debate contain several points, any member may have the same divided; but, on a motion to strike out and insert, it shall not be in order to move for a division of the question; but the rejection of a motion to strike out and insert one proposition shall not prevent a motion to strike out and insert a different proposition; nor prevent a subsequent motion simply to

strike out; nor shall the rejection of a motion simply to strike out prevent a subsequent motion to strike out and insert.

47. No motion to postpone, or to commit, having been once decided, shall be again allowed on the same day, at the same stage of a bill or other questions before the Senate.

48. No motion to admit any person whomsoever within the bar of the Senate shall be in order.

#### PETITIONS AND MEMORIALS.

49. Before any petition or memorial, addressed to the Senate, shall be received and read at the table, a brief verbal statement of its contents shall be made by the person presenting it.

#### PROTESTS.

50. Any member shall have liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons for dissent entered on the journal. (Con., Art. 3, Sec. 18.)

#### REPORTS.

51. All reports shall be in writing.

52. It shall be in order for the committees on Engrossed and Enrolled Bills to report at any time.

53. All reports, except reports from the committees on Engrossed and Enrolled Bills, shall, after being read, lie on the table one day for consideration, unless committed.

54. When a committee shall report an original bill, such bill shall be read with the report, and shall be endorsed by the secretary as having been read the first time.

#### COMMITMENT.

55. Motions in writing, reports, and all resolutions, except such as require the approval of the Governor, may be committed at the pleasure of the Senate.

56. When several motions shall be made for reference of a subject to a committee, they shall have preference in the following order: first, to a committee of the whole

Senate; second, to a standing committee; third, to a select committee.

#### RECONSIDERATION.

57. After a question shall have been decided in the affirmative or negative, any member who voted with the majority may, on the day in which the vote was taken, or within the next succeeding day of actual session, move the reconsideration thereof, unless the bill, resolution, message, report, amendment or motion, upon which the vote was taken, shall have passed out of the possession of the Senate.

58. In all cases a motion to reconsider shall be decided by a majority of the votes.

59. When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the Senate, and without debate.

#### QUESTIONS—MODE OF STATING AND VOTING ON.

60. All questions shall be distinctly put by the President, and the members shall signify their assent or dissent by answering "Yea" or "Nay."

#### EQUAL DIVISION OF THE SENATE.

61. If the Senate be equally divided on any question, the Lieutenant Governor, if present, shall give the casting vote. (Con. Art. 4, Sec. 15.)

62. The President of the Senate for the time being shall not, by virtue of his office, be entitled to give the casting vote in any case.

63. If the Senate be equally divided on any question or motion when the Lieutenant Governor is not present, such question or motion shall be lost.

#### YEAS AND NAYS.

64. On the call of three members for the yeas and nays on any question, they shall be taken; and each member, upon his name being called, unless excused by the Senate, shall, without debate, answer "Yea" or "Nay." (Con., Art. 3, Sec. 14.)

65. Upon the final passage of all amendments pro-

posed to the Constitution ; of all bills or joint resolutions appropriating money or lands for any purpose ; and of all other questions that require a vote of two-thirds, except a motion to suspend the rules, the presiding officer shall call for the yeas and nays, and they shall be entered on the journal. (Con., Art. 3, Sec. 24.)

66. At the desire of any three members present, the yeas and nays shall be entered on the journal ; and the names of the members not voting shall be recorded immediately after those voting in the affirmative and negative. (Con., Art. 3, Sec. 17.)

#### TWO-THIRDS VOTE—ON WHAT QUESTIONS REQUIRED.

67. A vote of two-thirds of the Senate shall be required for the final passage of amendments to the Constitution. (Con., Art. 12, Sec. 50.)

Bills making appropriation for private or individual purposes, or for purposes of internal improvement. (Con., Art. 12, Sec. 6.)

Bills exempting property from taxation. (Con., Art. 12, Sec. 29.)

Bills creating private corporations.

Bills to revoke or repeal private corporations.

Bills to authorize the State to borrow money.

Bills that have been returned by the Governor with his objections. (Con., Art. 4, Sec. 25.)

Bills to reduce a county to a less area than nine hundred square miles. (Con., Art. 12, Sec. 24.)

An address to the Governor for the removal of a judge of the Supreme or District Court, or any other civil officer. (Con., Art. 12, Sec. 41.)

In cases of impeachment, a vote of two-thirds shall be required to convict. (Con., Art. 8, Sec. 3.)

No amendment shall be received at the third reading of a bill without the consent of two-thirds present. (See Rule 37.)

Order of business shall not be postponed or changed without a two-third vote. (See Rule 73.)

No rule of the Senate shall be suspended unless by a vote of two-thirds. (See Rule 72.)

A two-thirds vote is necessary for the expulsion of a member. (Con., Art. 3, Sec. 16.)

## SUSPENSION AND RESCISSION OF THE RULES.

68. It shall require a vote of four-fifths of the Senate to suspend the rule requiring bills to be read on three several days; and no other rule of the Senate shall be suspended, unless by the votes of two-thirds of the members present. (Con., Art. 3, Sec. 24.)

69. The order of business, as established by the rules of the Senate, shall not be postponed or changed, except by a vote of two-thirds of the members present.

70. No standing rule or order of the Senate shall be rescinded or changed without one day's notice being given of the motion therefor.

71. No motion to suspend the rules for the purpose of considering a bill or resolution out of its order, shall be entertained during the morning call.

## REJECTION OF BILLS, RESOLUTIONS AND MOTIONS.

72. After a bill or resolution has been rejected by either branch of the Legislature, no bill or resolution containing the same substance shall be passed into a law during the same session. (Con., Art. 3, Sec. 26.)

73. A bill or resolution having been indefinitely postponed, shall not be acted on during the same session; nor shall any other bill or resolution containing the same substance, be passed into law during the same session.

## ELECTIONS.

74. In all elections by the Senate, the vote shall be given *viva voce*, except in the election of officers of the Senate. (Con., Art. 11, Sec. 4.)

75. A majority of the whole number of votes shall be necessary for a choice in all elections by the Senate.

## COMMITTEES.

76. All committees shall be appointed by the President, unless otherwise directed by the Senate.

77. The following standing committees shall be appointed at the commencement of each session:

1. A Committee on the Judiciary.
2. A Committee on Internal Improvements.

3. A Committee on Penitentiary.
4. A Committee on Private Land Claims.
5. A Committee on Education.
6. A Committee on Immigration.
7. A Committee on Finance.
8. A Committee on the Militia.
9. A Committee on Public Lands.
10. A Committee on State Affairs.
11. A Committee on Amendments to the Constitution.  
(To consist of not less than five members.)
12. A Committee on Privileges and Elections.
13. A Committee on Roads, Bridges and Ferries.
14. A Committee on Counties and County Boundaries.
15. A Committee on Claims and Accounts.
16. A Committee on Contingent Expenses.
17. A Committee on Printing.  
(To consist of not less than three members.)
18. A Committee on Federal Relations.  
(To consist of not less than five members.)
19. A Committee on Public Buildings.
20. A Committee on Public Debt.
21. A Committee on Land Office.
22. A Committee on Indian Affairs and Frontier Protection.
23. A Committee on Stock and Stock Raising.
24. A Committee on Retrenchment and Reform.
25. A Committee on Agricultural Affairs.
26. A Committee on Engrossed Bills.
27. A Committee on Enrolled Bills.  
(To consist of not less than three members.)
28. A Committee to Examine Comptroller's and Treasurer's Accounts, and that no such committee shall consist of more than nine members.

#### COMMITTEE OF THE WHOLE.

78. It shall be in order for the Senate, at any time after bills and resolutions have been called for, to resolve itself into committee of the whole.

79. In forming a committee of the whole Senate, the presiding officer shall leave the chair, and shall appoint a chairman to preside in committee.

80. When in committee of the whole, the Lieutenant Governor shall have a right to debate and vote on all questions. (Con. Art. 4, Section 5.)

81. The rules of the Senate, as far as applicable, shall be observed in committee of the whole.

82. Upon bills committed to a committee of the whole Senate, the bill shall be read and debated by clauses, leaving the preamble to be last considered; the body of the bill shall not be defaced or interlined; but all amendments, noting the page or line, shall be duly entered by the secretary on a separate paper, as the same shall be agreed to by the committee, and so reported to the Senate; after the report, the bill shall again be subject to be debated and amended, or committed, before a question to engross it be taken.

#### NOMINATIONS BY THE GOVERNOR.

83. When nominations shall be sent to the Senate by the Governor, a future day shall be assigned for acting thereon, unless the Senate unanimously direct otherwise.

84. Nominations shall only be acted on in executive session.

85. All nominations approved, or definitely acted on by the Senate, shall be returned to the Governor by the secretary from day to day, as such proceedings may occur.

#### EXECUTIVE SESSION.

86. When the Senate is in executive session, the Senate chamber and gallery shall be cleared of all persons, except the secretaries, doorkeeper and assistant doorkeeper, sergeant-at-arms and assistant sergeant-at-arms, who shall keep secret the proceedings of such session, until the injunction of secrecy is removed by a unanimous vote of the Senate.

87. All information or remarks touching the character or qualifications of any person nominated by the Governor to office, shall be kept secret.

88. Any officer or member convicted of violating any provision of either of the two preceding rules, shall be liable, if an officer, to dismissal from the service of the Senate; and if a member, to expulsion.

## MESSAGES.

89. Messages, bills, resolutions, and other papers shall be sent to the House of Representatives by the secretary, who shall previously endorse upon them the final determination of the Senate thereon.

90. Messages may be received at any time, except while a question is being put, while the yeas and nays are being taken, or while the ballots are being counted.

## JOURNAL OF THE SENATE.

91. The proceedings of the Senate when not in committee of the whole or in executive session, shall be entered on the journal as concisely as possible—care being taken to detail a true and accurate account of the proceedings; the titles of bills, and such parts thereof only as shall be affected by proposed amendments, shall be inserted in the journal; every report of a committee and vote of the Senate, and a brief statement of the contents of each petition, memorial or paper, presented to the Senate, shall also be inserted in the journal.

92. When a bill shall be returned to the Senate by the Governor, with his objections, they shall be entered at large upon the journal. (Con., Art. 4, Sec. 25.)

93. The proceedings of the Senate when in executive session, acting upon nominations made by the Governor, shall be kept in a separate and distinct book.

## ADJOURNMENT.

94. A motion to adjourn shall always be in order, and shall be decided without debate.

95. The Senate shall not adjourn for more than three days, nor to any other place than that in which it may be sitting, without the concurrence of the House of Representatives. (Con. Art. 3, Sec. 23.)

## ADMISSION OF PERSONS WITHIN THE BAR OF THE SENATE CHAMBER.

96. The Governor and ex-Governor of the State, the ex-Presidents of the Republic of Texas, the members of the House of Representatives, and such other persons as

the presiding officer, or any member of the Senate, may invite within the bar of the Senate chamber, shall be supplied with seats therein.

97. The President of the Senate shall decide all questions not provided for by the standing rules and orders of the Senate, and joint rules and orders of both branches of the Legislature, according to parliamentary practice as laid down by modern approved authors, subject to appeal to the Senate, as in other cases.

98. No motion to table an amendment shall carry with it the original bill or motion.

Report taken up, and on motion of Senator Fountain the rules reported were taken up and considered *seriatim*.

On motion of Senator Fountain, the consideration of the rules was suspended, and Senator Shelley offered the following resolution:

*Resolved*, That a committee of three Senators be appointed, to act with a like committee on the part of the House of Representatives, to wait upon his Excellency the Governor, and inform him that the Legislature was organized and ready to proceed to receive any communication he may wish to make.

Adopted.

The President announced Senators Shelley, Hall and Henry as said committee.

The Senate resumed the consideration of the rules, which was again suspended for the reception of the following report by Senator Shelley:

*Hon. E. B. Pickett, President of the Senate:*

SIR: The committee appointed to act with a like committee on the part of the House of Representatives, to wait on the Governor and inform him that the Legislature is organized and ready to receive any communication he may wish to make, have performed that duty, and were instructed by him to say that he would be ready to communicate to the Legislature in a few minutes.

Report adopted and committee discharged.

The Senate again resumed the consideration of the rules, pending which the following communication was received from his Excellency the Governor:

EXECUTIVE OFFICE,  
AUSTIN, Texas, January 14, 1873. }

*To the Honorable Senate and House of Representatives  
of the State of Texas :*

GENTLEMEN : Since my last annual message to the legislative body our State has continued that progress in the direction of peace and order, internal improvement, increase of population, wealth and public education, which commenced with our return to regular government; the past year showing, as a noticeable feature, even a greater ratio of advance in all these respects than any previous year.

Providence has also favored us with most abundant crops, and with good health and the absence of fatal diseases and epidemics. These blessings, and our pleasant and salubrious climate, our happy freedom from public debt and civil disturbance, our vigorous enforcement of the laws, our effective public school system, and the extensive area of our cheap and fertile lands—to which easy access is provided by the various railroads now being rapidly constructed—have attracted great attention abroad among those who seek a better fortune or pleasanter clime, and are bringing us an ever increasing current of immigration and capital.

The great change brought about in the condition of the State will best be appreciated by a comparison of that we see around us—the result of a few years of peace and enforcement of the laws—and the picture of affairs given by the Hon. Pendleton Murrah, in his message to a Legislature which occupied your halls near the close of the late struggle. He says :

“Imperative duty requires of me to call your attention to the fearful demoralization and crimes prevailing throughout the State. In some sections society is almost disorganized. The voice of the law is hushed, and its authority seldom asserted. It is a dead letter—an unhonored thing upon the unread pages of the statutes. Murder, robbery, theft, outrages of every kind against property—against human life—against everything sacred to a civilized people—are frequent and general. Whole communities are under a reign of terror, and they utter their dreadful apprehensions and their agonizing cries of distress in vain. The rule of the mob—

the bandit—of unbridled passions—rides over the solemn ordinances of the government. Foul crime is committed, and the criminal steeped in guilt and branded by his own dark deeds with eternal infamy, goes unwhipped of justice. Not even a warrant is issued for him—no effort is made by the sworn officers of the law, or by the community, to bring him to punishment. Too often the deed is excused—the community is divided in opinion as to the guilt, and the criminal is screened from justice—unless his offending chances to touch some peculiar influence or prevailing notions—and then, without trial, and without the forms of law, he is hung by a mob.”

Whether or not the bright contrast to this picture, which commemorates the day of your assembly in the same halls, is now to be marred, rests with us. If, without passion or prejudice, we address ourselves to legislation for the good of the people, whose voluntary servants for the time being we find ourselves; assuming error in what has been accomplished by our predecessors, only where error is manifest, and amending only where amendment will clearly benefit—with a purpose rather to build up and perfect than to tear down and mutilate—then all will be well. I trust that this spirit animates all branches of the law-making power of the State, and that whatever of evil might have been imagined or threatened during the bitterness of the late political canvass, it will, under the promptings of sober second thought, be put out of sight and not permitted to color legislation or obstruct its progress.

Asking your indulgence for the space occupied by these general reflections, and for which the gravity of the occasion seems my best excuse, I proceed to the performance of my constitutional duty, to furnish you information of the condition of the State, and recommend the measures of legislation deemed expedient.

#### FINANCES OF THE STATE.

The subject which always does, and should require most thought on the part of the wise legislator, and the exercise of his best judgment, is that of the finances, or support of the government.

A government is said to be perfect in proportion as it protects life, property and liberty, and evenly distributes

the burden of its support according to the means and strength of its citizens.

If this theory is correct, an application of the latter of these tests to the system of finances in Texas, or, more particularly to her laws for assessing and collecting taxes, will show us to have one of the worst possible. The burden of support, so far from being evenly distributed, falls mainly upon those who are too honest to wish to evade their share, or too weak to attempt it. The dishonest man, and especially him of large property, has every encouragement to evade. He may render his property at far below its true value, and should it be real estate (which is much the largest part of the taxable property), he may even then avoid payment until after the long delay of a suit in court. While this suit progresses, he figures as a delinquent, and when, after he has taken advantage of all the law's delays, he is finally reached by a judgment, he pays a trifling penalty, amounting but to a fraction of the usurious interest he may in the meantime have earned by loaning out the money he should have paid the State. He then prepares to repeat the same process with the next installment of taxes.

Thus it is reported to me under date of September 11, 1872, that the sum of \$441,402.50 (being more than one-third) of the State taxes assessed for the previous year (1871) were still unpaid into the treasury. Much the larger part of this is, doubtless, chargeable against delinquents, and it will be found, on investigation, that an undue proportion of this heavy delinquent list is made up of large property holders. The small farmer or person of moderate means, even if he desires to resist or delay the payment of his tax, cannot afford the expense of a lawsuit, which is of small consequence to his wealthy neighbor, and accordingly he pays promptly.

But it is by false assessments of his property that the large property holder manages most successfully to evade his due share of taxes. Our laws *practically* permit each citizen to fix the amount of taxes he ought to pay. It is true the assessing officer *may* correct the assessment, if he knows it to be too small, but in practice this is not often done. A direct encouragement is thus given to fraudulent undervaluation of property, and the extent to which this practice is carried, should be understood by you. I find, for instance, that the value of property for

the whole county of Galveston, including lands lying out of the county and assessed there, is computed for the year 1872 by the State assessors at \$13,769,448, while the assessment made by the city authorities, and for the city *alone*, is furnished me for the year 1871 at \$16,475,749.23, and for the year 1872, \$17,000,000. The assessment made by the city was probably short of the real value; but if that made by the State for the *whole* county of Galveston, and *outlying* lands owned there, had been made even as near the true value, it would have amounted to not less than \$19,000,000, or about five and a quarter millions more than was assessed. In every other county of the State a proportionate discrepancy would probably be found, if an investigation could be made, as facilities for correct assessment are better in Galveston than in most other counties.

#### WEALTHY CORPORATIONS AND INDIVIDUALS EVADING TAXES.

You may rest assured that the wealthy, whether corporations or individuals, are those who profit by these discrepancies. Special instances, showing the class which is benefitted by this practice, may be found in every county of the State. I will mention as a specimen, the "Western Union Telegraph Company." This company, previous to last year, had, as reported to me, never paid taxes on property exceeding \$3800 in value, but after I had set on foot inquiries touching its relations to the government, it returned its total property of all kinds within the State for 1872 at \$62,800. At the time this last assessment was made, it had upwards of 1200 miles of telegraph lines within the State, some lines with two or more wires.

The fraud in assessment returned by this greedy and unscrupulous monopoly, is apparent from the testimony of its president, before the Postal Telegraph Committee of Congress, May 11, 1870, where he swears that every mile of single wire telegraph, "out West," costs the company \$150, even "where the railroads haul the poles for us without charge." A fair assessment of its property would be not less than \$250,000.

Again: the railroads may always be said to be far short in their valuations. The return of one of the best paying of these has been called to my attention, where the assess-

ment (which embraces value of all rolling stock, road bed, stations, depots, and grounds attached, and city lots), is put at about \$10,000 to the mile, or one-third of the real value of the property.

It impresses me that our first duty is to remedy this evil. I am confident that if measures are taken that will secure correct assessment and prompt collection of the taxes, the whole taxes, State, county, school, etc., which now amount to about one and nine-tenths ( $1\frac{9}{10}$ ) per cent., may be reduced one-third, or even one-half, and a revenue secured thereby sufficient for all purposes. The proper remedies to apply must be selected by yourselves, but I will suggest that the evils of false assessments may be reached by requiring, as in other States, the assessors to estimate the value of property in proportion to the selling value, in its neighborhood, of similar property. Where there is no other similar property to compare it with, as in case of railroads, telegraphs, factories, etc., the assessors might take the cost of the property as a basis, deducting from this for wear and use, and adding to it when, from local or other extrinsic causes, it has increased in value beyond the original cost. Certainly the power of the property holder to fix the value of his property, and consequently the amount of taxes he may pay, is a temptation to fraud which ought to be taken from him. The neglect to pay the taxes after they are assessed might be reached by fixing a severe penalty for the delay, say an annual interest of fifty per cent. during delay, and by making all personal property of the owner liable to distraint for taxes due on real estate.

#### VALUE OF TAXABLE PROPERTY IN THE STATE.

The whole assessed value of property of the State, as shown by the returns for 1871 (the last year for which I am furnished with complete returns), is \$220,290,524. A correct assessment would doubtless have shown fully \$300,000,000 for that year; but, had the taxes been promptly paid, even on such assessment as was made, we would not still find ourselves with a deficiency to meet, and State warrants selling at a discount.

## MISAPPROPRIATION OF PUBLIC FUNDS BY SHERIFFS AND COUNTY COURTS.

But while you are considering measures to secure fair assessments of property and prompt collection of taxes, you should also revise the laws in relation to the disposition of the taxes by officers into whose hands they may pass. Sheriffs do not pay over their collections to the Treasury with due promptness, and since the depreciation of State warrants, there is good reason to believe that those officers and their agents have often delayed payments for the purpose of using the money to speculate in that kind of paper.

The disposition made of taxes assessed for county purposes should also be inquired into, and some restraint put upon the county courts that will secure an honest and lawful expenditure of those funds.

While on this subject, I should call your attention to the very large amount of taxes that has been exacted under the pretence of use for county purposes, and has been disbursed by the county courts with little or nothing to show by way of accounting for its lawful expenditure. The whole *ad valorem* taxes for support of the State government for the fiscal year 1871-72, are but \$1,101,364.02, and the whole of that part of the cost of the public schools to be paid by local taxes for the same period, is shown by the report of the Superintendent of Public Instruction to be but \$739,468.04, being together only \$1,840,832.06; but we find that the county courts exacted and disposed of the large sum of \$2,261,654.99 for *ad valorem* taxes, and the sum of \$105,686.48 occupation taxes in that year. In brief, the county courts have assessed the tax payers more than half a million dollars more taxes than it has cost the people during the same time, both to carry on our extensive system of public schools, and to support the State government in all its departments and varied services. There seems to be no effective restraint of wanton extravagance or malversation of public funds on the part of the county courts provided by law. They are not even required to publish periodical statements of their expenditures, which might operate in some degree to restrain them. There is no way of reaching and dismissing an incompetent member of that court, and the provision for expelling a vicious or corrupt

one, by indictment of a grand jury and conviction by a petit jury, is too slow and uncertain for any practical use.

#### GOVERNOR'S DISPOSITION OF STATE BONDS.

In connection with the matter of the State finances, the matter of the sale or disposition by me of the bonds provided by law to meet appropriations must be adverted to.

Of the seven hundred and fifty thousand dollars of bonds "for maintaining ranging companies on the frontier," issued under the act of August 5, 1870, three hundred and fifty have been sold, either for cash, or in payment of claims against that fund, realizing the sum of \$312,045.80; three hundred and fifty (together with one hundred of the ten per cent. currency bonds hereafter mentioned) are hypothecated with Messrs Williams & Guion, of New York city, to secure advances from that house through T. H. McMahan & Co., amounting to the sum of \$327,074.70 currency. The remaining fifty bonds of this issue are still unsold and on deposit at the Farmer's Loan and Trust Company, 26 Exchange Place, New York.

Of the four hundred thousand dollars of ten per cent. currency bonds, authorized by the act of May 19, 1871, two hundred and fifty-seven have been sold for cash or exchanged for State warrants, realizing \$235,850.94, less commission claimed by Raymond & Whitis. One hundred more of them are deposited with Williams & Guion, as above stated, towards securing their advances, and the remaining forty-three were reported by Messrs. Raymond & Whitis, the agents of the State for the sale of these bonds, as having been fraudulently taken out of their possession, and I have, by advertisement, warned the public against the purchase of them. Messrs. Raymond & Whitis are still responsible for the recovery and return of these bonds, or to secure the State against any loss on their account. These gentlemen have claimed and retained two and a half per cent. on the amount of the two hundred and fifty-seven of these bonds disposed of while their agency continued, but I have informed them that as the law only permits me to pay one per cent., they must look to the Legislature for an increase of commission. I must say that one per cent. is an unreasonably small commission for the sale of so few bonds. The ex-

penses are likely to have been as great to effect sale of these as would be the case were the amount large. One-third of these bonds, under the law creating them, must be redeemed next July.

I have engaged with Messrs. Williams & Guion, who, by general consent, were substituted for T. H. McMahan & Co. (the latter having failed during last summer, and could no longer be expected to comply with their engagement to the State), to return them the amount of their advances and interest, and withdraw the bonds in their possession on or before the first of March next.

SALE OF BONDS PREVENTED BY SLANDERS SENT FROM TEXAS.

Of the two millions of dollars of bonds authorized by the act of December 2, 1871, I have had \$500,000 printed and engraved, and have endeavored to sell or hypothecate them for the purpose of redeeming the outstanding warrants, and providing means for the current expenses of the State. I have been frustrated in this purpose by opposition from home. When the bonds were taken to New York they were met by amazing slanders concerning the indebtedness of the State, and the purpose of the Governor in issuing these bonds. These slanders were put forth by journals pretending to be among the leading press of Texas, and were industriously circulated by individuals who seemed deeply interested in destroying her good name. The debt of the State was asserted to be from fifteen to fifty millions, and capitalists were warned that the incoming Legislature would repudiate these bonds. The same sort of opposition had before met my efforts to put upon the market the above mentioned bonds for frontier defense, and affected seriously their sale. In consequence of these slanders I could not sell or hypothecate any of the \$500,000 without submitting to a sacrifice that with my estimate of what should be the financial standing of Texas was totally inadmissible, and I have accordingly placed them on deposit at the Farmers' Loan and Trust Company, to await such action of your body as will show to the world that those who predicted repudiation on your part were simply dishonest falsifiers of the character of their State and Legislature.

When this is done by you the credit of the State will

at once be placed on such a footing that our necessities can be relieved without submitting to unconscionable demands.

GOOD FINANCIAL CONDITION OF THE STATE.

The financial standing of Texas ought to be of the best, and it will be so when it becomes known to the world that her people are too enlightened to permit repudiation of her engagements.

Her obligations are these :

Three hundred and fifty seven per cent. Frontier Defense gold bonds sold.....	\$350,000 00
Two hundred and fifty-seven ten per cent currency bonds sold .....	257,000 00
Amount due Williams & Guion, of New York city, for which as above four hundred and fifty are security bonds (currency).....	\$27,074 70
Six per cent. currency bonds issued to fund old debt under the provisional act of November 29, 1866.....	125,100 00
Six per cent. currency bonds issued to fund old debt under act of May 2, 1871, for auditing public debt.....	44,500 00
Certificates of indebtedness issued to claimants in last mentioned act and act of May 22, 1871, currency.....	63,157 05
Amount of outstanding warrants on the first day of this month.....	215,000 00
Amount for deficiencies in former appropriation, and estimated as due judiciary and officers and employés of government since September 1, 1872, and up to first inst., for which no appropriation has yet been made.	150,000 00
Amount erroneously collected by Comptroller for commissions of assessors and collectors in 1871, which must be returned to tax-payers.....	131,167 03
Total.....	\$1,662,998 78

These are the total of debts or claims which are known to exist against the State, except the claim of the Inter-

national Railroad for their bond subsidy for completed railway. You will perceive that I have not included among our obligations the following items mentioned in the Treasurer's report, viz.:

Five per cent. State Bonds to credit of University and permanent school fund.....	\$216,641 05
Six per cent. State Bonds to credit of permanent school fund.....	320,367 13
Comptroller's certificates of indebtedness....	89,709 91
Total.....	\$626,718 09

These items are relics of the late war, and the allusion made to the two last in my first message to the Legislature may well apply substantially to the three: "These items represent State warrants or State bonds issued during the war, and representing obligations which are now void, should no longer be borne on the Comptroller's reports." In effect these bonds and certificates are due to ourselves, if at all, to support the University and public schools, and instead of raising taxes to pay them we may just as well, if necessary, effect the same purpose by paying the taxes directly to the support of those institutions.

Thus the total of actual indebtedness of Texas amounts to the small sum of \$1,662,998.78. An amount which could be paid off by a TAX FOR A SINGLE YEAR OF LESS THAN A HALF OF ONE PER CENT. on the taxable value of property within the State. On the other hand, we have in the Treasury to offset this debt \$49,279.62 in specie, and \$204,036.07 currency, belonging to special funds, and (as will be seen when I allude to the School and Land Departments) our large school fund in United States bonds and lands, and our many millions of acres of public domain.

TREASURER'S REPORT, AND HOW TREASURY WAS LEFT BY  
G. W. HONEY.

The report of the State Treasurer, Hon. B. Graham, will show the condition of that department of the government. He only succeeded in getting possession of the Treasury in July last, though I had commissioned him in May, under appointment from me, made in conformity

with the power conferred by Section VII, Article IV of the Constitution, the late Treasurer, G. W. Honey, having vacated the office. The books, accounts and papers of the Treasury were found in great confusion, and it has required patience and skill on the part of the present Treasurer and his clerks to restore anything of the order and system that ought there to prevail. As nearly as could be ascertained from a comparison of the records and money found, the late Treasurer appeared deficient \$31,171.06½ in specie, and \$45,977.54 in currency. His deficiency may be more or less than this. Since the Treasury has been under the present control \$28,896.13 currency, which had been loaned out by Mr. Honey, has been recovered and replaced. While the books and accounts were found in confusion, and the cash short, abundance of unmistakable evidence was also found to show that the Treasury had practically been turned into a broker's office for the shaving of the State's warrants with her money. The present Treasurer is a gentleman whose standing and character is a guarantee that pilfering of the public money, or combinations of rings to use it in speculations, will not further be permitted.

#### PUBLIC SCHOOLS.

Public schools were inaugurated in Texas on the first Monday in September, 1871. We have had, therefore, only the experience of operations for one complete scholastic year, and the fall session of another. Texas has witnessed many unsuccessful efforts to establish these schools, and the last in that way previous to the present law (the cumbrous law of August 13, 1870), after essaying the regulation of the schools by many minute enactments, the applicability of which to our State could only be tested by experience, had ruined the whole, by leaving the establishment and direction of the schools in the hands of the county courts. Accordingly, our present law was drafted with a view to establish only a frame for a system, and left this frame to be built out by the Board of Education, to which was given ample power to establish and modify such regulations as might be found best adapted to rapid and vigorous construction of an effective system.

Notwithstanding the opposition the system has had to

contend against, and though all innovations find their opposers, I think the opposition this has encountered has been more than the usual share and of the most unreasoning kind; yet, withal, it has, as a system of education, been a success wherever in the State that opposition has not been powerful enough to prevent its operation. The public schools of Texas have been, AS A WHOLE, conducted since their operation commenced on a cheaper plan, have had less expensive machinery, have had a better average of teachers, and have educated more children in proportion to the population than those of any other (since the war) of the so-called reconstructed States, some of which have had their systems under way for many years, and better in several of these respects than those of many of the Northern States. A comparison will, I think, sustain this favorable report.

While, then, we have an edifice which has so clearly demonstrated its practical efficiency for the purpose in view at its foundation, I respectfully suggest that it had better not be torn down to make way for the experiment of some theorist. It was to be expected that the enforcement of any effective plan would meet the fault-finding of everybody who might have a pet plan of his own, and the bearing of many of the regulations not being at once perceived by even well disposed people, caused some complaints, that, as they are becoming accustomed to those regulations, and the machinery, from use, runs smoother, have been silenced.

The amount of the tax to support it is the objection to the system, which has been made the most of, by its adversaries. I need only say, in this regard, that until our taxable property is, relatively to the population, very much larger than at present, a smaller annual tax than one per cent. will not suffice to maintain a system calculated to furnish education to the mass of the children of the State, and unless we propose to do at least so much, we had better not attempt anything. We cannot satisfy the enlightened public opinion of the world, or do our duty as legislators, by a sham of a system, which may open a school house to one man's children but leave his neighbor's out of doors. It must be remembered, too, that our tax is both for building school houses and maintaining schools. For these combined purposes I believe it is less than in most of the States. I know it is very considerably less than in many of them.

But it should be understood that the opposition to the tax does not come from the poor, or man of moderate means. The wealthy man, who possesses his hundreds of thousands, or the corporation, with its millions, make the bitter war, though these classes, more than any other, are materially interested in the protection and security to property which the education of the masses is sure to promote. This feature of the opposition to public schools has been especially marked in some of the leading cities of the State. In Austin, Houston, Waco, Jefferson and Brownsville, supposed to be among our most cultivated centres, the courts have been besieged by these classes with petitions to restrain collection of the tax. Three of these cities were contestants during the late election for the location of the capital, but Austin, which distanced her competitors, can also claim the pre-eminence that her leading citizens and wealthy men have been more successful than her sisters in starving out the public school teacher. This will not be a pleasant circumstance to recount in the day, certain to come, when public education is firmly fixed as an institution; but were I to abstain from reference to it, I might feel that perhaps misplaced delicacy had turned me from the performance of my full duty. The State has obtained abroad a good name for her public schools, but the honest chronicler must record the truth, with sorrow, if you please, that the wealthy are not, as a class, entitled to the credit.

Of course it is not claimed that the system is or ever will be PERFECT. Nothing of human invention can be. But let us be sure to find where the machinery is defective before we attempt improvement.

#### AMENDMENT OF SCHOOL LAW SUGGESTED.

By way of giving the patrons more direct control in the selection of the officers who are to disburse their taxes, I recommend an amendment to the law, giving the election of boards of school directors to the people of the districts. The spirit of our institutions requires that those who pay the taxes should also have the choice of their agents to disburse, and the present manner of choosing those officers was intended only to be temporary.

But with this amendment should be coupled a provision that will ensure the prompt removal of directors who

may prove incompetent, or may refuse to obey the laws and regulations established for government of the schools, or may be guilty of official misconduct. A provision might also be adopted authorizing the directors, under safe restraint, to raise money to build school houses by the issue of bonds, and thus better distribute the burden of the tax otherwise required to pay for those buildings. I believe the other members of the board of education coincide in these recommendations and will join in reporting them for your consideration, as authorized to do under section fourth of the law. I am of the opinion that further important changes of the law would not, at present, be safe.

#### COST OF THE PUBLIC SCHOOLS.

The total cost of public schools for the year was \$1,222,221.24, of which \$482,753.20 was paid by the State and \$739,468.04 is to be paid by the counties. As my space will not permit an itemized statement of this cost, I must refer you therefor to the report of the Superintendent of Instruction, but I will here present a few items which give an idea of the relative outlay in the different branches of expenditures for the schools, viz :

Pay of teachers.....	\$979,350	27
Pay of principals.....	37,796	76
Pay of supervisors (35 to January 1, 1872, and 12 for balance of year.....	23,585	00
Pay of employés (clerks and porter hire).....	18,453	61
Apparatus, (slates \$8275, maps and charts \$5475, school tablets \$2250).....	16,000	00
Rent of school houses.....	64,866	25
Examiners (all discharged except one at the capital .....	8,418	62

The number of teachers examined up to first instant who received certificates was 6583. The number examined and rejected for incompetency 1229, and the whole number employed in public schools during the year was 2625.

## CHILDREN IN THE STATE AND NUMBER TAUGHT.

The whole number of children in the State, as made up from reports of justices of the peace (and the United States census, where these failed), for 1871, was estimated at 228,355.

The justices, who are required by law to take the scholastic census, have, in many instances, done it very imperfectly or not at all, and there is reason to believe that the number is somewhat larger than estimated.

Total children in schools in first month (September, 1871).....	28,800
Total that received instruction in public schools during year.....	127,672
Average number of children taught in public schools.....	81,653

It will be seen that the average monthly cost of each pupil has been \$1.43 currency, including all charges, even for building school houses. It is noticeable that much the largest attendance was during the spring and summer months.

The opening month of the second scholastic year shows an attendance of 45,922, an increase over that of last year, but not by any means as numerous as might have been had the system encountered no opposition. In many counties which reported flourishing schools last year, the schools have been forced to close altogether, because of failure to pay the tax, and in others, for the same reason, they languish.

## CONDITION OF PUBLIC SCHOOL FUND.

The permanent and available school fund on first instant was as follows:

Specie in the Treasury and hands of Comptroller.....	\$40,708 43
Currency.....	64,089 12
Six per cent. United States bonds.....	70,800 00
Five per cent. United States bonds.....	271,250 00
Consolidated principal and interest of six per cent. railroad bonds.....	2,173,278 44
Total.....	\$2,620,125 99

There is also the amount expected to be realized from the suits in Washington, say \$250,000 specie; also, 2,763,072 acres of land, estimated as worth \$2,763,072. This fund was supposed, when the war closed, to have been mostly dissipated.

The report of the Superintendent of Instruction will furnish you full and interesting details of the working of his department.

#### PURPOSES HAD IN VIEW WHEN TAKING OFFICE.

When I commenced the performance of the duties of Governor, I proposed to myself these main purposes: On the one hand to restrain that tendency to extravagant squandering of public money and running into debt, which has disgraced many of the governments and Legislatures of the (so-called) reconstructed States, a tendency, however, that was to be expected of that demoralization which the tremendous convulsion of the war caused to permeate, more or less, all parties and classes in those States. On the other hand, to restrain that lawlessness which always unfavorably distinguished our people, but had become shockingly intensified by the habits taught our young men in military camps. How far in the former purpose I have been successful, the journals of the Legislature and the exposition of the State's finances made you to-day must illustrate. The effect of the measures adopted to suppress lawlessness, though visible everywhere, I will briefly review.

#### MILITIA AND POLICE ACTS.

Two of these measures were those known as the militia and State police laws. The feature of the former law looking directly to preservation of the peace was that delegating to the Governor power to suspend the laws within disturbed districts. I have fortunately been compelled to resort to this authority but on three occasions, though the knowledge that I possessed the power, and might exercise it, doubtless often prevented disturbances hurtful to the prosperity of our State, and averted the interference of the United States government, which nearly all of the reconstructed States have been subjected to. Under our Constitution, your houses have the granting

or withholding of this power entirely confided to you, and if in your wisdom you conclude that the necessity for it has ceased, it would not be within the province of the Executive to object.

The State police has relieved the State of multitudes of bad characters, but I decidedly do not think their services can yet be dispensed with. Since their organization, two years and six months ago, the total cost of the police up to the first instant has been \$408,274.12, or an average annual cost of \$163,309.64. They have, so far as reported, during that time arrested 581 persons charged with murder, 760 charged with attempt to kill, 1748 charged with other felonies, and several thousands charged with lesser offenses. They have also recovered and returned to the owners a large amount of property, of which no account has been kept since the first six months, when about \$30,000 was so recovered.

In the execution of their duty eight policemen have on different occasions lost their lives, and a number have been wounded. Of necessity the efficiency of the police had been impaired of late by the depreciation of State warrants, in which they are paid, amounting generally to near half their nominal pay.

The report of the Adjutant General and *ex-officio* Chief of Police will show the condition and strength of the police, militia and State guard.

#### ACT REGULATING BEARING OF ARMS.

Another of the measures for preservation of the peace was the act of April 12, 1871, regulating the "keeping and bearing of deadly weapons." It had a most happy effect, and to secure its thorough enforcement I have offered a standing reward for the arrest and conviction of violators of it.

#### DEFALCATION OF THE LATE ADJUTANT GENERAL JAMES DAVIDSON.

The late Adjutant General, James Davidson, resigned on the fourth of November last. Shortly after his resignation it was discovered by the present officer that his accounts were incorrect, and an examination has developed a defalcation that appears to be upwards of thirty

thousand dollars, though facts have not been ascertained to fix the amount precisely. As far as his accounts indicate, this defalcation commenced to accumulate within a few months past. The Comptroller having disregarded my instructions of the eighteenth of March last, which forbid the drawing of money from the Treasury without vouchers filed, showing lawful disbursement, he was furnished facilities for running up the greater part of this amount. Some thousands of the defalcation are represented by vouchers in the Treasury, on which he has drawn and embezzled the money that should have been paid to the claimants.

Prompt measures have been taken to recover the property, and also to cause the return to the State of this defaulter, and I have reason to hope that the sum embezzled will pretty much be made up.

#### FRONTIER DEFENSE AND INDIAN AFFAIRS.

All the companies (fourteen in number, with eight hundred and seventeen officers and men) for frontier defense, organized under the act of June 13, 1870, were discharged during or before 1871. Owing to the obstacles above alluded to, put in the way of my negotiation of the bonds for their support, and my consequent inability to pay and supply them, the efficiency of these companies was not as anticipated. The total amount of claims presented for their pay, support and equipment is \$455,321.03—of which \$451,154.48 has been approved.

Of minute companies authorized by the act of November 25, 1871, twenty two, with four hundred and forty men, have been organized. The total cost of these to first instant was \$21,692.75. I recommend the continuance of these companies in service, and that the Governor be authorized to enroll them for all the counties liable to Indian raids, and, in case of special necessity, more than one company in a county. This system of protecting the frontier, though not satisfactory, is the best the State finances can afford. As a further relief to the frontiersmen, I have adopted the practice of issuing to them arms belonging to the State, under regulations, to prevent waste. With this design I have requested that the quota of arms due us from the general government be issued of such kinds as may be most serviceable to those citizens, and the request has been granted.

The general government, I understand, now proposes to locate within the Indian Territory, all the Indians south of Kansas, and, by treaty or force, induce them to remain there. If this plan be adopted, and the Indians are put under such surveillance as will prevent their absence from the Territory, our State will be relieved from further attack by any Indians living within the United States. In aid partly of this plan, I permitted the chiefs confined in the penitentiary for murder, to be taken to the Territory for an interview with their people, and promised Executive pardon if they could induce all their tribes to surrender to the United States government, and give up their arms, horses and captives. They have been returned to the penitentiary, but I understand that their mission has been productive of good, and that the desired arrangement is likely to be effected.

#### PUBLIC LANDS.

The report of the Commissioner of the General Land Office shows 88,842,704½ acres as the estimated area of vacant public lands, against 86,751,855½ acres either patented or for which the State has become liable in the way of unlocated certificates.

#### THE CONSTITUTIONAL AMENDMENT.

While considering the subject of the public lands I can appropriately advert to the vote at the late general election on the amendment to the Constitution proposed by the resolution adopted May 17, 1871. The vote as reported to the Secretary of State stood 57,611 "For," and 35,076 "Against" the amendment, but the names of the persons who voted on the amendment were not returned as required by the Constitution (Art. IX, Sec. L,) and my proclamation ordering the election. In fact under our election law it was not possible for the polling officers to furnish the names. If this defect in the returns be considered immaterial, the question of adoption of the amendment is before you for action.

#### CONVICTS PARDONED AND FINES REMITTED.

The report of the Secretary of State will furnish among other matters for your information the number of cases

of pardon or commutation of sentence of convicts by the Executive since the last report, and also fines and forfeitures remitted with the reasons therefor.

#### IMMIGRATION.

The report of the Superintendent of Immigration evidences great activity in his bureau. He states the total increase of our population from immigration during the year 1872, at 91,600 persons. Part of this is estimated for those who came into the State by land, but I believe it rather an under estimate. To the labors of Mr. Loeffler and his agents, the State is largely indebted for these results. The bureau has been ably and economically conducted, and I recommend that a liberal appropriation be made for its support during the present and coming fiscal year. The amount he asks, \$89,200, is not too large for the ends proposed. This is one of those enterprises where I am sure judicious expenditure, within reasonable bounds, cannot fail to profit the State.

#### THE STATE ASYLUMS.

The condition of the asylums for the blind, deaf and dumb and lunatics is clearly laid before you by the reports from those institutions. In every respect their condition will be found satisfactory. The students and patients seem well taken care of. It is true, the Lunatic Asylum is too small for the patients now there, but they are made as comfortable as possible under the circumstances. This asylum does not furnish accommodation to more than a third of that class of unfortunate persons within the State who should be there. I advise a suitable appropriation for its enlargement.

#### QUARANTINE.

Our coast has been kept free from epidemics. The enforcement of a rigid quarantine has thus demonstrated the utility of the law establishing it. Experience points out where some amendments of the law may be advantageously made, and such will be submitted to you during your session. As the decision of the United States Court at Galveston has cut off the revenue from shipping, which

mainly supported the quarantine, you are called upon to supply the deficiency by an adequate appropriation.

#### AGRICULTURAL AND MECHANICAL COLLEGE.

The college for the benefit of agriculture and the mechanic arts was located at Bryan, and some progress made toward constructing suitable buildings, but that progress not being commensurate with the large share of the appropriation expended, I last summer suspended the work to await further legislation. The law is defective in not limiting clearly the power of the commissioners. Some objection has been made to the selection of Bryan, but, on the whole, I think it had better now remain there. Additional appropriation will be required to finish the college on the plan adopted by the commissioners.

#### JAILS AND COURT HOUSES.

Our county jails and court houses, especially the former, are very properly beginning to attract the attention of the public. Our jails are as bad as they can be. When so constructed as to secure prisoners confined in them, they become dens unfit for the habitation of wild beasts. When not made secure—and this is so in about four-fifths of all the counties—the constant escape of prisoners is made (as recently by the mob in Erath and adjoining counties) the excuse for wholesale murder of persons accused of offenses. The jail here at the capital is a specimen of its kind, which it might be well to inspect. I called the attention of the last Legislature to this evil, and suggested, as a remedy, that the building of jails and court houses, and the collection of the taxes therefor, be taken charge of by the State.

#### THE STATE PENITENTIARY.

Under the law of March 22, 1871, I leased the penitentiary to Messrs. Ward, Dewey & Co., who took possession on the fifth day of July, 1871. The bid of those gentlemen was, on the whole, the best made, but it still leaves the State to meet part of the expense for transportation of prisoners. Under the management of the

lessees, the penitentiary and the discipline of the convicts have greatly improved.

There were, on the first instant, 944 convicts in the penitentiary, against 489, the number confined there in February, 1870. This large increase of course does not indicate that the proportion of criminals among our people is increasing, but only that criminal justice is now better administered. The report of the directors, and other officers, and also that of the Rev. B. A. Rogers, who attended, as delegate from this State, the late International Congress for prevention and repression of crime, at London, England, will be laid before you, and I have to request that their recommendations be duly considered. Particularly I have to urge the immediate necessity for at least one additional penitentiary. This matter has before been brought by me to the attention of the Legislature.

#### REPORT OF THE ATTORNEY GENERAL.

The Attorney General's report states the work done in his department, and the facts and legal grounds which have moved him to bring certain suits, referred to in his report, against the "Houston and Texas Central Railroad," and the "Western Union Telegraph Company."

#### SPECIAL LEGISLATION OBJECTED TO.

Much valuable time is occupied at each session with the matter of private or special legislation. The most of this can be put out of the way by general incorporation laws, of which one was passed at the last session, but which did not include railroad companies, and also made other exceptions. In permitting those exceptions the act is defective. There is no good reason why railroad companies may not, as well as others, be remitted altogether to a general incorporation act.

In regard to all other special legislation some relief is desirable, and, as far as I can judge of its effect, a practice similar to that of the English parliament might afford it. It is to be objected, certainly, that the Constitution of the English parliament differs too widely from ours for their practice to serve us as a safe guide, and there is some reason in that argument; but, at any rate, a trial might be made.

## APPROPRIATION FOR CONTINGENT EXPENSES OF LEGISLATURE.

I took occasion, in a veto message sent in at the spring session of 1871, to object to the unsafe practice which had of late years grown up, of large appropriations for the very vague purpose of "contingent expenses of the Legislature." This practice commenced on a considerable scale with the Provisional Legislature of 1866. It is clearly unconstitutional, in that it assumes to set apart large sums of public money in such shape that the Executive has no opportunity to ascertain whether the purposes of the appropriation are legitimate, and cannot therefore advisedly exercise the veto power. A large portion of the aggregate cost of the last Legislature went out of the Treasury in this shape, and I have reason to believe that much of it was expended improperly.

## RAILROADS WITHIN THE STATE.

Since my last regular message (two years), 567 additional miles of railroad have been completed and put in running order, measuring, together with 511 miles previously completed, a total of 1078 miles within the State. Great progress in the construction of railroads is now making, and there is good prospect that within the present year 500 miles more will be finished.

While these enterprises should be encouraged by legislation, liberal within reasonable bounds, and we should honestly adhere to our engagements with them, our anxiety to develop our territory by their means should not blind us to the fact that these highways are ostensibly built for the convenience of the people, who accordingly may have some rights their corporations should be made to respect. The general railroad law of February 7, 1853, Section 15, gives the Legislature authority, at any time, to prescribe the rates of charge for travel and freight on the roads. I asked the last Legislature to act under that authority, but the matter was overlooked, and, because of its importance to the people, I again recommend it.

## APPROPRIATION FOR THE CAPITOL AND GROUNDS.

As the seat of government has been fixed permanently at Austin, it may be well to begin to consider measures for building a suitable State House, in place of the present insufficient and temporary one. While our finances may not, at the moment, permit more than the preliminary surveys and estimates for such building, we may now, without much expense, commence to improve and beautify the grounds about the capitol and Governor's mansion, by grading and by planting trees and shrubbery. I therefore recommend an appropriation for these purposes.

## APPORTIONMENT AND ELECTION OF SENATORS AND REPRESENTATIVES.

Under Sections XI and XXXIV, Article III, of the Constitution, an apportionment of Senators and Representatives must be made at this session. Under the construction given the similar provision, in the Constitution of 1845, an election should be had, after the apportionment, for *all the Senators*, without regard to length of term.

## TIME OF NEXT GENERAL ELECTION.

The term of office of the present Executive should expire on the twenty-eighth day of April, 1874. The election law should therefore be changed so as to authorize a general election, at some day before that date, for State officers, members of the Legislature, and such county officers as may be then elective.

## AMENDMENT OF ELECTION LAW SUGGESTED.

I further recommend that the election law be amended to permit the opening of election polls within each of the justice's precincts, and to reduce the number of days of election from four to one. But, if these two amendments are adopted, they should be accompanied by provisions that will secure substantial protection to all classes of voters in the exercise of the elective franchise. The existing arrangement was the result of apprehensions that, at outlying precincts, all voters might not have that security.

## GALVESTON CITY ELECTION.

As the charter of the city of Galveston enacts that the first election under it shall be held at the next general election for State officers, I could not order an election to be held there in November, as was done for other cities and towns. I recommend legislation directing an election of officers of that city on the first Monday of March next.

## ESTIMATE OF RECEIPTS AND EXPENDITURES FOR STATE GOVERNMENT.

The Comptroller has failed to make me the annual report and estimate due from his office on the first Monday of last month. I can therefore only approximately estimate the receipts during the current and ensuing fiscal years. On the basis of the taxes assessed for the fiscal year 1871-2, the State *ad valorem* and occupation taxes for this year ought to be about \$1,430,000, and for the next about \$1,650,000, one-fourth of these sums going to the available school fund. Unless our manner of collecting the taxes is bettered, a large part of these amounts will not reach the Treasury during the years for which they are assessed. If our tax laws are corrected we may expect full collections, and the assessment for next year will also be considerably greater than I have estimated.

The estimates of expenditures will be sent to you within a few days.

I will close this communication by inviting a close scrutiny of the accounts and disbursements of all State officers. This is due to the people as well as to honest officers, who, being so, are entitled to relief from the scandalous imputations which in this day blacken the good and bad alike.

EDMUND J. DAVIS, Governor.

On motion of Senator Shelley, the message was laid on the table, and 1500 copies in English and 500 in the German languages were ordered printed for the use of the Senate.

On motion of Senator Pyle, 300 copies in the Spanish language were added.

The Senate again resumed consideration of the rules.

Senator Fountain asked leave to amend the rules as reported by striking out "a Committee on Judiciary," and adding "Two Committees on Judiciary, to be styled Committees No. 1 and No. 2."

Whereupon, the yeas and nays were called, and stood :

Yeas—Senators Latimer, Sayers, Shelley and Word—4.

Nays—Senators Avinger, Baker, Ball, Broughton, Cole, Dillard, Dohoney, Evans, Ford, Finlay, Flanagan, Fountain, Gaines, Hall, Henry, King, Pyle, Rawson, Randle, Ruby, Saylor, Swift, Tendick and Tracy—24.

So the Senate refused to allow the correction.

The rules as reported by the committee were then adopted, and one hundred copies ordered printed for the use of the Senate.

On motion of Senator Baker, Senator Gaines was excused from attendance on the Senate until Monday next.

On motion, the Senate adjourned until 10 o'clock A. M. to-morrow.

SENATE CHAMBER, )  
AUSTIN, TEXAS, January 17, 1873. }

Senate met pursuant to adjournment, President Pickett in the chair. Prayer. Roll called; quorum present.

On motion of Senator Fountain, the reading of the journal of yesterday was dispensed with.

Senator Finlay presented memorial of Wells Thompson, contesting the seat of R. P. Tendick, Senator from the Twenty-fifth District, which was read and referred to Committee on Elections.

Senator Henry presented memorial of Charles Stewart, contesting the seat of J. G. Tracy, of the Fourteenth Senatorial District, which was read and referred to Committee on Elections.

On motion of Senator Finlay, the Senate proceeded to the election of a chaplain.

Senators King, Henry and Ford were appointed tellers.

Nominations being in order, Senator Ball nominated F. C. Wilkes, Senator Dohoney nominated W. J. Jones, and Senator Saylor nominated Rev. R. H. Taliaferro, and the Senate proceeded to ballot with the following result :